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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,926	01/16/2004	Maurice Eduardus Theodorus van Esbroeck	V0028/296360	6540

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EXAMINER

PRICE, RICHARD THOMAS JR

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 08/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/758,926

Applicant(s)

VAN ESBROECK ET AL.

Examiner

Thomas Price

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2-28-2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-43 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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***Election/Restrictions***

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-35 and 38-41, drawn to a method for processing poultry.

Group II, claim(s) 36 and 37, drawn to a method for evaluating the tenderness of a meat part of a slaughtered animal.

Group III, claims 42 and 43, drawn to a device for evaluating the tenderness of a meat part of a slaughtered animal.

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The groups listed above are not within the permitted combination of different categories of inventions. That is one apparatus and one process. As set forth in the form PCT/IPEA/210 there is no special technical feature that defines a contribution over the prior art (See US 4,627,007 Muschany, 2 December 1981, see the entire document).

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

If Group I is elected, then the following election of species requirement applies, Species 1-21.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

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The species are as follows:

Species 1 directed to applying electrical voltage to a poultry carcass with a voltage that lies within the range of 50V to 250V.

Species 2 directed to applying electrical voltage to a poultry carcass with a voltage that has a frequency within the range 10Hz to 1kHz.

Species 3 directed to applying electrical voltage to a poultry carcass with the voltage pulse over a pulse time of about 0.5 second and a zero-voltage period with a duration of about 1 second.

Species 4 directed to applying electrical voltage to a poultry carcass in which the carcass is led by the breast over an electrode.

Species 5 directed to applying electrical voltage to a poultry carcass in which the application of force to the carcass in the direction of the rail.

Species 6 directed to applying electrical voltage to a poultry carcass in which the carcass has an oblique position substantially at right angles to its direction of motion.

Species 7 directed to applying electrical voltage to a poultry carcass in which the legs of the carcass are earthed via the product carrier.

Species 8 directed to applying electrical voltage to a poultry carcass in the carcass is exposed to a pulsating alternating voltage.

Species 9 directed to applying electrical voltage to a poultry carcass in the carcass is exposed to a first and second stimulation period between 30 and 180 seconds.

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Species 10 directed to applying electrical voltage to a poultry carcass having a first rest period with a length between 15 and 45 seconds.

Species 11 directed to applying electrical voltage to a poultry carcass including the step of exposing the poultry to a second electrical stimulation downstream of the plucking device.

Species 12 directed to applying electrical voltage to a poultry carcass including the step of cooling the carcass after the first stimulation period.

Species 13 directed to applying electrical voltage to a poultry carcass including measuring the progress of the maturing process during transport.

Species 14 directed to applying electrical voltage to a poultry carcass including the measurement of the behavior pattern of the pH-value.

Species 15 directed to applying electrical voltage to a poultry carcass including the breast meat chosen as the meat portion to be evaluated.

Species 16 directed to applying electrical voltage to a poultry carcass in which the evaluation is carried out prior to expiry of the electrical stimulation.

Species 17 directed to applying electrical voltage to a poultry carcass in which the evaluation is carried out prior to, during or after the deboning.

Species 18 directed to applying electrical voltage to a poultry carcass in which the method is implemented prior to, during or after the cooling.

Species 19 directed to applying electrical voltage to a poultry carcass in which the basis of the evaluation of the meat portion, a measurement value is determined by means of a regression analysis.

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Species 20 directed to applying electrical voltage to a poultry carcass in which the tenderness of a meat specimen is determined by the measuring the respective diffuse reflection coefficients of the specimen.

Species 21 directed to applying electrical voltage to a poultry carcass including comparing the respective measurement results obtained from conducted evaluations.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Species 1 as claimed in claims 1, 2, 16 and 17.  
Species 2 as claimed in claims 1, 2, 18 and 19.  
Species 3 as claimed in claims 1, 2 and 20.  
Species 4 as claimed in claims 1, 3 and 4.  
Species 5 as claimed in claims 1, 3, 5 and 7.  
Species 6 as claimed in claims 1, 3, 5 and 8.  
Species 7 as claimed in claims 1, 3 and 6.  
Species 8 as claimed in claims 1, 9 and 10.  
Species 9 as claimed in claims 1, 9 and 11-13.  
Species 10 as claimed in claims 1, 9, 14 and 15.  
Species 11 as claimed in claims 1, 21 and 22

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Species 12 as claimed in claims 1, 23 and 24.  
Species 13 as claimed in claims 1, 23, 25 and 26.  
Species 14 as claimed in claims 1, 23, 25 and 27.  
Species 15 as claimed in claims 1, 29 and 30.  
Species 16 as claimed in claims 1, 29 and 31.  
Species 17 as claimed in claims 1, 29 and 32.  
Species 18 as claimed in claims 1, 29 and 33.  
Species 19 as claimed in claims 1, 29 and 34.  
Species 20 as claimed in claims 1, 29, 35, 38, 39 and 41.  
Species 21 as claimed in claims 1, 29, 35, 38 and 40.  
The following claim(s) are generic: 1.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons. Each species includes a special technical feature which is not present in any of the other species, thus unity is lacking.

A telephone call was made to Catherine Fienning on 08-08-2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas Price whose telephone number is 571-272-6892. The examiner can normally be reached on M-F from 6:30a.m. to 3:00p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Thomas Price", is positioned above the printed name.

Thomas Price

Primary Examiner GAU: 3643

rtp